

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAN MEAD and JENNIFER MEAD,

Plaintiffs,

Case No. 1:23-cv-01313

v.

ROCKFORD PUBLIC SCHOOL
DISTRICT and ROCKFORD PUBLIC
SCHOOLS' BOARD OF EDUCATION,

Hon. Paul L. Maloney

Mag. Ray Kent

Defendants.

Rockford's Notice of Supplemental Authority

In its motion to dismiss, Rockford relied on the United States District Court for the Southern District of Ohio's decision in *Parents Defending Education v. Olentangy Local School District Board of Education*, 684 F. Supp. 3d 684, 691 (S.D. Ohio 2023). (See Rockford Br., ECF No. 13, PageID.94). In *Parents Defending Education*, the plaintiffs challenged a school district's policies prohibiting discriminatory speech, "including the intentional misgendering of transgender students—i.e., failing to address a student by their preferred pronouns." *Id.* at 689-90. The plaintiffs alleged that policies violated their First Amendment free speech rights, as well as their Fourteenth Amendment fundamental parental rights. They sought preliminary injunctive relief prohibiting the school district's policies from taking effect. *See id.*

The Southern District of Ohio denied the plaintiffs' request for a preliminary injunction, concluding that the plaintiffs failed to show that their constitutional claims were likely to succeed on the merits. As for the plaintiffs' fundamental parental rights claim, the district court concluded: "There is nothing in the Policies that suggests that they prohibit parents from discussing gender identity issues with their children, or reach in some other way into the privacy of families' homes."

Id. at 711. The district court emphasized that, “[w]hile parents may have a fundamental right to decide *whether* to send their child to a public school, they do not have a fundamental right generally to direct *how* a public school teaches their child.” *Id.* at 710 (quoting *Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381, 395 (6th Cir. 2005) (emphasis in *Blau*)).

On July 29, 2024, the Sixth Circuit affirmed the Southern District of Ohio’s denial of a preliminary injunction. *See Parents Defending Educ. v. Olentangy Loc. Sch. Dist. Bd. of Educ.*, 109 F.4th 453 (6th Cir. 2024). Notably, the plaintiffs in *Parents Defending Education* opted *not* to appeal the district court’s ruling concluding that they were not likely to succeed on their Fourteenth Amendment fundamental parental rights claim—appealing only the First Amendment free speech claim. *Id.* Nevertheless, the Sixth Circuit affirmed the district court’s ruling denying a preliminary injunction for failure to show a likelihood of success on the merits. *See id.* at 462-73.

Although addressing a different claim, the Sixth Circuit acknowledged the challenge that this social issue presents in the educational environment. Rejecting the plaintiffs’ argument that the school district’s compromise—permitting objecting students to “use no pronouns at all”—still violated their constitutional rights, the Sixth Circuit characterized the school’s effort as a “win-win” that “respect[s] both sides’ deeply held beliefs concerning gender identity.” *Id.* at 467. The Sixth Circuit also recognized “administrators’ need to affirmatively protect the learning environment,” observing that “[i]t takes no great inferential leap—actually no leap at all—for the [school district] to reach the common-sense conclusion that the dehumanizing and humiliating effects of non-preferred pronouns could create a substantial ‘disrupt[ion] [to] the educational process’ justifying restricting the use of those pronouns.” *Id.* at 464.

In this case, too, Rockford’s policy navigates a divisive social issue within the bounds of the Constitution, and carefully and appropriately balances the rights of the students, the parents,

and the school. Rockford continues to ask this Court to dismiss Plaintiffs' complaint with prejudice.

MILLER JOHNSON
Attorneys for Defendants

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By: /s/ Amanda Rauh-Bieri
Catherine A. Tracey (P63161)
Amy E. Murphy (P82369)
Amanda Rauh-Bieri (P83615)
45 Ottawa Ave SW, Suite 1100
Grand Rapids, MI 49503
(616) 831-1742
traceyc@millerjohnson.com
murphya@millerjohnson.com
rauhbieria@millerjohnson.com